

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Loretta Cerbelli, as Administratrix of the Estate of Kevin
Cerbelli, deceased,

Plaintiff,

-against-

The City Of New York, the New York City Police
Department, Police Officers James Williams, Paul Valdes,
and Robert Ehmer, Sgt. Michael Barreto, Lt. William
McBride, and Other Yet To Be Identified Police Officers of
the City Of New York Police Department,

**STIPULATION AND
ORDER OF SETTLEMENT
AND DISMISSAL**

CV 99-6846 (RML)

Defendants.
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WHEREAS, plaintiff commenced this action by filing a complaint on or about October 21, 1999, alleging that the defendants violated plaintiff's federal civil and state common law rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, on September 30, 2008, the Court granted defendants summary judgment except with respect to plaintiff's wrongful death claim, plaintiff's federal claim against Police Officers Paul Valdes and Robert Ehmer for excessive force and certain of plaintiff's state law claims against Valdes and Ehmer for assault and battery; and

WHEREAS, the parties now desire to resolve the remaining issues raised in this litigation, without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and

between the undersigned, as follows:

1. In consideration of the terms set forth in paragraph 2 below, the above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or attorneys' fees to any party.
2. The parties will attend a two-hour meeting together on or before July 30, 2010.
 - a. The meeting will take place at the New York Police Department Academy.
 - b. The defendants will be represented by the New York Police Department's Assistant Deputy Commissioner, Legal Affairs; the Assistant Commissioner, Training; the Coordinator of Emotionally Disturbed Person Training Workshops, and a representative from the Office of the Corporation Counsel.
 - c. The plaintiff may be accompanied by two members of her legal team and up to two experts, none of whom may be involved in any current or pending litigation against New York City.
 - d. As soon as is practicable, but no later than two weeks in advance of the meeting, plaintiff's experts' credentials will be provided to defendants. Defendants will have the right to reject, on any reasonable, stated grounds, an expert proposed by plaintiff within one week of receiving the credentials.
 - e. At least two weeks in advance of the meeting, plaintiff will provide defendants with a proposed agenda for discussion so that the parties can discuss and refine it.
3. Plaintiff shall execute and deliver to defendant City of New York's attorney all documents necessary to effect this settlement, including, without limitation, a General Release.
4. Until this document is fully executed and filed with the Court and the General Release is executed and returned to counsel for defendants, the parties will not make public statements relating to the settlement of this matter.

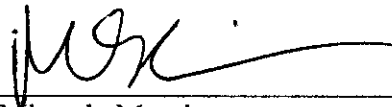
5. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

6. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York, or any agency thereof.

7. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

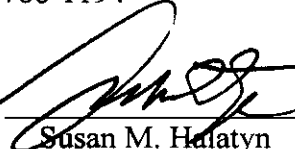
Dated: New York, New York
April 28, 2010

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s/ MJ Levy

Magistrate Judge Robert M. Levy 